

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

EDDIE J. COMBS,

Plaintiff,

vs.

ARTHUR D. CURTIS and STEVE
TUCKER,

Defendants.

NO: CV-12-5047-JPH

ORDER ADOPTING REPORT AND
RECOMMENDATION AND
DENYING MOTION AS MOOT

BEFORE THE COURT are Plaintiff's documents entitled, "Supplemental Information to Support Objection to R/R to (Deny) Hearing," (ECF No. 44), received on January 28, 2013, and "Objection [to] Recommendation (to) Deny, Motion [to] Order, Hearing," (ECF No. 45), received on February 4, 2013. By Report and Recommendation dated January 4, 2013, Magistrate Judge Hutton recommended that Plaintiff's Motion for a Hearing be denied as moot. ECF No. 41.

ORDER ADOPTING REPORT AND RECOMMENDATION AND DENYING
MOTION AS MOOT -- 1

1 Mr. Combs' Complaint was dismissed without prejudice for failure to state a
2 claim upon which relief may be granted under *Heck v. Humphrey*, 512 U.S. 477,
3 487 (1994), and this action was closed on September 6, 2012. ECF No. 28.
4 Plaintiff's appeal was deemed frivolous by the Ninth Circuit Court of Appeals on
5 November 8, 2012 (ECF No. 36), and Plaintiff failed to pay the filing fee. The
6 Ninth Circuit issued its Mandate on December 12, 2012. ECF No. 40. Based on
7 the disposition of this matter, there is no basis upon which to conduct any further
8 proceedings.

9 The Court has reviewed Plaintiff's objections in which he asserts a Seventh
10 Amendment right to a jury trial and again demands that his complaint be served.
11 Plaintiff is admonished that when a complaint is dismissed for failure to state a
12 claim upon which relief may be granted under 28 U.S.C. §§ 1915(e)(2) and
13 1915A(b)(1), there will be no trial. A District Court cannot require Defendants to
14 respond to a lawsuit that has been dismissed, especially when the Ninth Circuit
15 Court of Appeals deemed the appeal of that dismissal frivolous.

16 For the reasons set forth above and in the Report and Recommendation by
17 Magistrate Judge Hutton, **IT IS ORDERED** the Report and Recommendation
18 (ECF No. 41) is **ADOPTED in its entirety**. Plaintiff's Motion to Order Hearing
19 (ECF No. 37), is **DENIED**. Plaintiff shall not be permitted to file any further
20 documents in this action.

1 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
2 Order, enter judgment, and forward copies to Plaintiff. This file shall remain
3 CLOSED. The Court certifies that any appeal of this dismissal would not be taken
4 in good faith.

5 **DATED** this 12th day of February, 2013.



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A handwritten signature in blue ink that reads "Thomas O. Rice".

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THOMAS O. RICE
UNITED STATES DISTRICT JUDGE